

3/7/73

CHATTEL MORTGAGE, TRUST DEED, ASSIGNMENT OF RENTS

AND

SECURITY AGREEMENT

RECORDATION NO. _____ Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

THIS CHATTEL MORTGAGE TRUST DEED, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT ("Mortgage") dated as of January 15, 1973 from FIFTH THIRD BANK (the "Mortgagor"), whose Post Office address is Fifth Third Center, Cincinnati, Ohio 45202, to FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, as Trustee (the "Trustee"), having an office at 15th and Chestnut Street, Philadelphia, Pennsylvania 19101, Attention: Corporate Trust Department.

WITNESSETH:

WHEREAS, the Mortgagor and the institutional lenders named in the following schedule have entered into a Loan Agreement dated as of January 15, 1973, providing for the commitment of the lender to make loans to the Mortgagor on or before July 1, 1973, not exceeding the aggregate principal amount of the lender, set forth in the schedule below to be evidenced by the 7-3/4% Secured Notes (the "Notes") of the Mortgagor, said Notes to bear interest at the rate of 7-3/4% per annum prior to maturity and to mature in quarterly installments of principal and interest as provided in the Loan Agreement with the final installment payable not later than July 1, 1985, and to be otherwise substantially in the form attached as Exhibit 1 to said Loan Agreement:

Institutional LenderPrincipal Amount of Notes

Bankers Life Insurance Company
of Nebraska

\$ 750,000

The Travelers Insurance Company

\$2,427,344

WHEREAS, the institutional lender named in the preceding preambles is hereinafter referred to as the "Lender" and the Loan Agreement is hereinafter referred to as the "Loan Agreement"; and

WHEREAS, the Notes and all principal thereof and interest (and premium, if any) thereon and all additional amounts and other sums at any time due and owing from or required to be paid by the Mortgagor under the terms of the Notes, this Mortgage or the Loan Agreement are hereinafter sometimes referred to as "indebtedness hereby secured"; and

WHEREAS, all of the requirements of law have been fully complied with and all other acts and things necessary to make this

Mortgage a valid, binding and legal instrument for the security of the Notes have been done and performed;

NOW, THEREFORE, the Mortgagor in consideration of the premises and of the sum of Ten Dollars received by the Mortgagor from the Trustee and other good and valuable consideration, the receipt whereof is hereby acknowledged, and in order to secure the payment of the principal of and interest on the Notes according to their tenor and effect, and to secure the payment of all other indebtedness hereby secured and the performance and observance of all the covenants and conditions in the Notes and in this Mortgage and in the Loan Agreement contained, does hereby sell, convey, warrant, assign, pledge, grant a security interest in, and mortgage and hypothecate unto the Trustee, its successors in trust and assigns, forever, all and singular the following described properties, rights, interests and privileges (all of which properties hereby mortgaged, assigned and pledged or intended so to be are hereinafter collectively referred to as the "mortgaged property"):

DIVISION I

The railroad rolling stock described in Schedule 1 attached hereto and made a part hereof (collectively the "Equipment" and individually "Item of Equipment") including, without limitation, the 480 three-pocket steel hopper cars more fully described in said Schedule 1, being the Equipment leased and delivered under that certain Equipment Lease dated as of January 15, 1973 (the "Lease") between Mortgagor as Lessor, and Bessemer and Lake Erie Railroad Company, a Pennsylvania corporation, as Lessee (the "Lessee"), and constituting all of the Equipment described in Schedule A to the Lease, together with all accessories, equipment parts and appurtenances appertaining or attached to any of the Equipment hereinabove described, whether now owned or hereafter acquired, and all substitutions, renewals and replacements of and additions, improvements, accessions and accumulations to any and all of said Equipment together with all the rents, issues, income, profits and avails therefrom.

DIVISION II

All right, title and interest of the Mortgagor, as Lessor, in, under and to the Lease and all rents and other sums due and to become due thereunder including any and all extensions or renewals thereof insofar as the same cover or relate to the Equipment set forth in Division I hereof; it being the intent and purpose thereof that the

assignment and transfer to the Trustee of said rents and other sums due and to become due under the Lease shall be effective and operative immediately and shall continue in full force and effect and the Trustee shall have the right to collect and receive said rents and other sums for application in accordance with the provisions of Section 3 hereof at all times during the period from and after the date of this Mortgage until the indebtedness hereby secured has been fully paid and discharged.

SUBJECT, HOWEVER, to (a) the rights, and the interest of the Lessee under the Lease, and (b) the lien of current taxes and assessments not in default, or, if delinquent, the validity of which is being contested in good faith.

TO HAVE AND TO HOLD the mortgaged property unto the Trustee, its successors and assigns, forever; IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth, for the equal and proportionate benefit, security and protection of all present and future holders of the Notes outstanding under the Loan Agreement, without preference, priority or distinction of any Note over any other Note by reason of priority at the time of issue, sale, negotiation, date of maturity thereof or otherwise for any cause whatsoever; provided always, however, that these presents are upon the express condition that if the Mortgagor shall pay or cause to be paid all the indebtedness hereby secured and shall observe, keep and perform all the terms and conditions, covenants and agreements herein and in the Loan Agreement and the Notes contained, then these presents and the estate hereby granted and conveyed shall cease and this Mortgage shall become null and void; otherwise to remain in full force and effect.

SECTION 1. COVENANTS AND WARRANTIES:

The Mortgagor covenants, warrants and agrees as follows:

1.1 The Mortgagor covenants and agrees well and truly to perform, abide by and to be governed and restricted by each and all of the terms, provisions, restrictions, covenants and agreements set forth in the Loan Agreement, and in each and every supplement thereto or amendment thereof which may at any time or from time to time be executed and delivered by the parties thereto or their successors and assigns, to the same extent as though each and all of said terms, provisions, restrictions, covenants and agreements were fully set out herein and as though any amendments or supplements to the Loan Agreement were fully set out in an amendment or supplement to this Mortgage.

1.2 Warranty of Title. The Mortgagor is lawfully seized and possessed of the Equipment described in Division I of the granting

clause hereof and has good right, full power and authority to convey, transfer and mortgage the Equipment to the Trustee for the uses and purposes herein set forth; the Equipment described in said Division I is owned by the Mortgagor free from any and all liens and encumbrances (excepting only the lien of current ad valorem taxes not in default and the rights, and the interest of the Lessee under the Lease); and the Mortgagor will warrant and defend the title thereto against all claims and demands whatsoever (excepting only the rights, and the interest of the Lessee under the Lease).

1.3 Further Assurances. The Mortgagor will, at its own expense, do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances necessary or proper for the better assuring, conveying, assigning and confirming unto the Trustee all of the mortgaged property, or property intended so to be, whether now owned or hereafter acquired. Without limiting the foregoing but in furtherance of the assignment of rents and other sums due and to become due under the Lease the Mortgagor covenants and agrees that it will notify the Lessee of such assignment and direct and cause the Lessee to make all payments of such rents and other sums due and to become due under the Lease directly to the Trustee. The Mortgagor further agrees that prior to or concurrently with each subsequent Closing Date referred to in the Loan Agreement, the Mortgagor will execute and deliver a supplement to this Mortgage satisfactory in form and content to the Trustee specifically describing as part of the mortgaged property all Items of Equipment sold and delivered to the Mortgagor by the Lessee subsequent to the date of this Mortgage or the last preceding supplement executed and delivered by the Mortgagor pursuant to this Section, and the Mortgagor will file and record such supplement pursuant to Section 20c of the Interstate Commerce Act.

1.4 After-Acquired Property. Any and all property described or referred to in the granting clauses hereof which is hereafter acquired shall ipso facto, and without any further conveyance, assignment or act on the part of the Mortgagor or the Trustee become and be, subject to the lien of this Mortgage as fully and completely as though specifically described herein, but nothing in this Section 1.4 contained shall be deemed to modify or change the obligation of the Mortgagor under Section 1.3 hereof.

1.5 Recordation and Filing. The Mortgagor will cause this Mortgage and all mortgages supplemental hereto, the Lease and all supplements thereto, and all financing and continuation statements and similar notices required by applicable law, at all times to be kept, recorded and filed at its own expense in such manner and in such places as may be required by law in order fully to preserve and protect the rights of the Trustee hereunder, and will at its own expense furnish to the Trustee promptly after the execution and delivery of this Mortgage and of each supplemental mortgage an opinion of counsel stating that in the opinion of such counsel this mortgage or such supplemental

mortgage, as the case may be, has been properly recorded or filed for record so as to make effective of record the lien intended to be created hereby.

1.6 Modifications of the Lease. The Mortgagor will not:

(a) declare a default or exercise the remedies of the Lessor under, or terminate, modify or accept a surrender of, or offer or permit any termination, modification, surrender or termination of, the Lease (except as otherwise expressly provided herein) or consent to the creation or existence of any mortgage or other lien to secure the payment of indebtedness upon the leasehold estate created by the Lease or any part thereof; or

(b) receive or collect or permit the receipt or collection of any rental payment under the Lease prior to the date for payment thereof provided for by the Lease or assign, transfer or hypothecate (other than to the Trustee hereunder) any rental payment then due or to accrue in the future under the Lease in respect of the mortgaged property;

(c) sell, mortgage, transfer, assign or hypothecate (other than to the Trustee hereunder) its interest in the Equipment or any part thereof or in any amount to be received by it from the use or disposition of the Equipment.

1.7 Power of Attorney in Respect of the Lease. The Mortgagor does hereby irrevocably constitute and appoint the Trustee, its true and lawful attorney with full power of substitution, for it and in its name, place and stead, to ask, demand, collect, receive, receipt for, sue for, compound and give acquittance for any and all rents, income and other sums which are assigned under Division II of the granting clause hereof with full power to settle, adjust or compromise any claim thereunder as fully as the Mortgagor could itself do, and to endorse the names of the Mortgagor on all commercial paper given in payment or in part payment thereof, and in its discretion to file any claim or take any other action or proceedings, either in its own name or in the name of the Mortgagor or otherwise, which the Trustee may deem necessary or appropriate to collect any and all sums which may be or become due or payable under the Lease or which may be necessary or appropriate to protect and preserve the rights and interest of the Trustee in and to such rents and other sums and the security intended to be afforded hereby.

SECTION 2. POSSESSION, USE AND RELEASE OF PROPERTY:

2.1 While the Mortgagor is not in default hereunder it shall be suffered and permitted to remain in full possession, enjoyment and

control of the Equipment and to manage, operate and use the same and each part thereof with the rights and franchises appertaining thereto; provided always, that the possession, enjoyment, control and use of the Equipment shall at all times be subject to the observance and performance of the terms of this Mortgage. It is expressly understood that the use and possession of the Equipment by Lessee under and subject to the Lease shall not constitute a violation of this Section 2.1.

2.2 So long as no default referred to in Section 14 of the Lease has occurred and is continuing to the knowledge of the Trustee, the Trustee shall execute a release in respect of any Item of Equipment designated by the Lessee for settlement pursuant to Section 11 of the Lease upon receipt from the Lessee of: (i) written notice designating the Items of Equipment in respect of which the Lease will terminate and (ii) cash settlement therefor in compliance with Section 11 of the Lease.

2.3 In addition to the sale, exchange or release pursuant to foregoing Section 2.2, the Mortgagor may sell or otherwise dispose of any Equipment then subject to the lien of this Mortgage, and the Trustee shall release the same from the lien hereof to the extent and on the terms and upon compliance with the conditions provided for in any written consent given thereto at any time or from time to time by the holder or holders of the indebtedness hereby secured.

2.4 No purchaser in good faith of property purporting to be released hereunder shall be bound to ascertain the authority of the Trustee to execute the release, or to inquire as to any facts required by the provisions hereof for the exercise of such authority; nor shall any purchaser, in good faith, of any item or unit of the mortgaged property be under obligation to ascertain or inquire into the conditions upon which any such sale is hereby authorized.

SECTION 3. APPLICATION OF ASSIGNED RENTALS AND CERTAIN OTHER MONEYS RECEIVED BY THE TRUSTEE:

3.1 As more fully set forth in Division II of the granting clause hereof the Mortgagor has hereby sold, assigned, conveyed, pledged and mortgaged to the Trustee all rents, issues, profits, income and other sums due and to become due under the Lease in respect of the Equipment as security for the Notes. So long as no event of default as defined in Section 4 hereof has occurred and is continuing:

(a) The amounts from time to time received by the Trustee which constitute payment of an installment of periodic rent under the Lease shall be applied as follows:

First, to the payment of the installments of interest of the Notes which have matured or will mature on or

before the due date of the installment of periodic rent which is received by the Trustee;

Second, to the payment of the installments of principal of the Notes which have matured or will mature on or before the due date of the installment of periodic rent which is received by the Trustee; and

Third, the balance, if any, to or upon the order of the Mortgagor; and

(b) The amounts from time to time received by the Trustee which constitute cash settlement by the Lessee of the "Casualty Value" for any Item of Equipment pursuant to Section 11 of the Lease shall be paid and applied on the Notes, all in such manner and in such amounts so that after giving effect to such application and the release of the Item of Equipment from the Lease and the lien of this Mortgage;

(1) the aggregate principal amount remaining unpaid on the Notes does not exceed the "Present Value of Rents" as hereinafter defined in respect of all other Equipment which then remains subject to the Lease and the lien of the Mortgage; and

(2) each of the remaining installments of the Notes shall be reduced in the proportion that the principal amount of the prepayment bears to the unpaid principal amount of the Notes immediately prior to the prepayment.

Any amounts in excess of the "Present Value of Rents" as hereinafter defined in respect of any Item of Equipment for which settlement is made by the Lessee pursuant to Section 11 of the Lease shall be released to or upon the order of the Mortgagor.

If more than one Note is outstanding at the time any application is made pursuant to this Section 3.1, the application shall be made on all outstanding Notes ratably in accordance with the principal amount remaining unpaid thereon and on the installments of principal and interest on each Note, respectively, in the manner provided for by the preceding paragraphs (a) and (b).

3.2 The term "Present Value of Rents" for any Item of Equipment shall mean as of any date an amount equal to the aggregate periodic rent in respect of such Item reserved for the balance of the rental period originally provided for in the Lease and remaining unpaid as of the close of business on such date, discounted on the basis of 5.348% per annum interest factor compounded quarterly to the respective dates on which the periodic rents are payable, with all such discounts

to be computed on an actuarial basis in accordance with schedules prepared by a statistical firm of nationally recognized standing as may be selected by the Mortgagor and approved by the Trustee.

3.3 If an event of default referred to in Section 4 hereof has occurred and is continuing, all amounts received by the Trustee under the assignment provided for in Division II of the granting clause hereof shall be applied in the manner provided for in Section 4 in respect of proceeds and avails of the mortgaged property.

SECTION 4. DEFAULTS AND OTHER PROVISIONS:

4.1 The terms and provisions of Section 5 of the Loan Agreement are incorporated herein by reference to the same extent as though fully set forth herein and the Mortgagor agrees that when any "event of default" as defined in Section 5 of the Loan Agreement has occurred and is continuing, the Trustee shall have the rights, options, duties and remedies of a secured party, and the Mortgagor shall have the rights and duties of a debtor, under the Uniform Commercial Code (regardless of whether such Code or a law similar thereto has been enacted in a jurisdiction wherein the rights or remedies are asserted) and without limiting the foregoing, the Trustee may exercise any one or more or all, and in any order, of the remedies hereinafter set forth, it being expressly understood that no remedy herein conferred is intended to be exclusive of any other remedy or remedies; but each and every remedy shall be cumulative and shall be in addition to every other remedy given herein or now or hereafter existing at law or in equity or by statute:

(a) The Trustee or the holders of not less than 20% in aggregate principal amount of the Notes outstanding may, by notice in writing to the Mortgagor (and to the Trustee if given by noteholders) declare the entire unpaid balance of the Notes to be immediately due and payable; and thereupon all such unpaid balance, together with all accrued interest thereon shall be and become immediately due and payable;

(b) Subject always to the then existing rights, if any, of the Lessee under the Lease, the Trustee personally or by agents or attorneys, shall have the right (subject to compliance with any applicable mandatory legal requirements) to take immediate possession of the mortgaged property, or any portion thereof, and for that purpose may pursue the same wherever it may be found, and may enter any of the premises of the Mortgagor, with or without notice, demand, process of law or legal procedure, and search for, take possession of, remove, keep and store the same, or use and operate or lease the same until sold;

(c) Subject always to the then existing rights, if any, of the Lessee under the Lease, the Trustee may, if at the time such action may be lawful and always subject to compliance with any mandatory legal requirements, either with or without taking possession and either before or after taking possession, and without instituting any legal proceedings whatsoever, and having first given notice of such sale by registered mail to the Mortgagor once at least ten days prior to the date of such sale, and any other notice which may be required by law, sell and dispose of said mortgaged property, or any part thereof, at public auction to the highest bidder, in one lot as an entirety or in separate lots, and either for cash or on credit and on such terms as the Trustee may determine, and at any place (whether or not it be the location of the mortgaged property or any part thereof) designated in the notice above referred to. Any such sale or sales may be adjourned from time to time by announcement at the time and place appointed for such sale or sales, or for any such adjourned sale or sales, without further published notice, and the Trustee or the holder or holders of the Notes or of any interest therein may bid and become the purchaser at any such sale;

(d) The Trustee may proceed to protect and enforce this Mortgage and the Notes by suit or suits or proceedings in equity, at law, or in bankruptcy, and whether for the specific performance of any covenant or agreement herein contained or in execution or aid of any power herein granted; or for foreclosure hereunder, or for the appointment of a receiver or receivers for the mortgaged property or any part thereof, or, subject to the provisions of Section 6 hereof, for the recovery of judgment for the indebtedness hereby secured, or for the enforcement of any other proper legal or equitable remedy available under applicable law;

(e) Subject always to the then existing rights, if any, of the Lessee under the Lease, the Trustee may proceed to exercise all rights, privileges and remedies of the Lessor under the Lease, and may exercise all such rights and remedies either in the name of the Trustee or in the name of the Mortgagor for the use and benefit of the Trustee.

4.2 In case of any sale of the mortgaged property, or of any part thereof, pursuant to any judgment or decree of any court or otherwise in connection with the enforcement of any of the terms of this Mortgage, the principal of the Notes if not previously due, and the interest accrued thereon, shall at once become and be immediately due and payable; also in the case of any such sale, the purchaser or purchasers, for the purpose of making settlement for or payment of the purchase price, shall be entitled to turn in and use the Notes and

any claims for interest matured and unpaid thereon, in order that there may be credited as paid on the purchase price the sum apportionable and applicable to the Notes including principal and interest thereof out of the net proceeds of such sale after allowing for the proportion of the total purchase price required to be paid in actual cash.

4.3 The Mortgagor covenants that it will not at any time insist upon or plead, or in any manner whatever claim or take any benefit or advantage of, any stay or extension law now or at any time hereafter in force, nor claim, take, nor insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the mortgaged property or any part thereof, prior to any sale or sales thereof to be made pursuant to any provision herein contained, or to the decree, judgment or order of any court of competent jurisdiction; nor, after such sale or sales, claim or exercise any right under any statute now or hereafter made or enacted by any state or otherwise to redeem the property so sold or any part thereof, and hereby expressly waives for itself and on behalf of each and every person, all benefit and advantage of any such law or laws, and covenants that it will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any power herein granted and delegated to the Trustee, but will suffer and permit the execution of every such power as though no such law or laws had been made or enacted.

Any sale, whether under any power of sale hereby given or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Mortgagor in and to the property sold shall be a perpetual bar, both at law and in equity, against the Mortgagor, its successors and assigns, and against any and all persons claiming the property sold or any part thereof under, by or through the Mortgagor, its successors or assigns (subject, however, to the then existing rights, if any, of the Lessee under the Lease).

4.4 The purchase money proceeds and/or avails of any sale of the mortgaged property, or any part thereof, and the proceeds and the avails of any remedy hereunder shall be paid to and applied as follows:

(a) To the payment of costs and expenses of foreclosure or suit, if any, and of such sale, and the reasonable compensation of the Trustee, its agents, attorneys and counsel, and of all proper expenses, liability and advances incurred or made hereunder by the Trustee, or the holder or holders of the Notes, and of all taxes, assessments or liens superior to the lien of these presents, except any taxes, assessments or other superior lien subject to which said sale may have been made;

(b) To the payment of the amounts then due and unpaid on the Notes for principal and interest, ratably and without preference or priority of any kind according to the amounts due and payable on the Notes; and

(c) To the payment of the surplus, if any, to the Mortgagor, its successors and assigns, or to whomsoever may be lawfully entitled to receive the same.

4.5 In case the Trustee shall have proceeded to enforce any right under this Mortgage by foreclosure, sale, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely, then and in every such case the Mortgagor, the Trustee and the holders of the Notes shall be restored to their former positions and rights hereunder with respect to the property subject to the lien of this Mortgage.

4.6 No delay or omission of the Trustee or of any holder of the Notes to exercise any right or power arising from any default on the part of the Mortgagor, shall exhaust or impair any such right or power or prevent its exercise during the continuance of such default. No waiver by the Trustee, or any holder of any Note or any such default, whether such waiver be full or partial, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom, except as may be otherwise provided herein. No remedy hereunder is intended to be exclusive of any other remedy but each and every remedy shall be cumulative and in addition to any and every other remedy given hereunder or otherwise existing. Nor shall the giving, taking or endorsement of any other or additional security, collateral or guaranty for the payment of the indebtedness secured under this Mortgage operate to prejudice, or waive or affect the security of this Mortgage or any rights, powers or remedies hereunder, nor shall the Trustee or the holder of any of the indebtedness hereby secured be required to first look to, enforce or exhaust such other additional security, collateral or guaranties.

SECTION 5. SUCCESSOR TRUSTEES AND OTHER PROVISIONS:

5.1 The Trustee shall not be answerable for the default or misconduct of any agent or attorney appointed in pursuance hereof if such agent or attorney shall have been selected with reasonable care, or for anything whatsoever in connection with this Mortgage or the Notes or the proceeds thereof except for its own willful misconduct or gross negligence, nor shall the Trustee be under any obligation to take any action toward the execution or enforcement of the trusts hereby created which in its opinion shall be likely to involve expense or

liability, unless as often as required the holder or holders of the Notes shall furnish indemnity satisfactory to the Trustee against such expense or liability.

5.2 The Trustee shall be entitled to reasonable compensation for all services rendered in and about the administration of the trusts herein provided for and in and about foreclosure, enforcement or other protection of this Mortgage or the lien hereof, and the Mortgagor agrees to pay such compensation and to indemnify the Trustee against any liability or damages incurred or sustained by it under this Mortgage. Without limiting the foregoing the Trustee shall have a lien for such compensation and indemnity, as well as for all out-of-pocket expenses and counsel fees and court costs incurred by the Trustee in any foreclosure, enforcement or other protection of this Mortgage or the lien hereof, on the mortgaged premises and the trust estate prior to the lien for the benefit of the Notes.

5.3 The Trustee shall not be responsible for any recitals herein or in the Loan Agreements or for insuring the mortgaged property, or for the recording, filing or refiling of this Mortgage, or of any supplemental or further mortgage or trust deed, nor shall the Trustee be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the Mortgagor contained herein or in the Loan Agreement, and the Trustee shall be deemed to have knowledge of any default on the part of the Mortgagor in the performance or observance of any such covenants, conditions or agreements only upon receipt of written notice thereof from one of the holders of the Notes; provided, however, that upon receipt by the Trustee of such written notice from a holder, the Trustee shall promptly notify all other holders of such notice and the default referred to therein.

5.4 The Trustee shall not be liable for any action taken or omitted to be taken in good faith and believed by it to be within the discretion or power conferred upon the Trustee by this Mortgage, or be responsible for the consequences of any oversight or error of judgment, and the Trustee shall be protected in acting upon any notice, consent, certificate or other instrument believed by it to be genuine and correct and to have been signed by the proper person or persons.

5.5 Notwithstanding anything elsewhere in this Mortgage contained, the Trustee shall have the right, but shall not be required to demand, in respect of withdrawal of any cash, the release of any property, the subjection of any after acquired property to the lien of this Mortgage, or any other action whatsoever within the purview hereof, any showings, certificates, opinions, appraisals or other information by the Trustee deemed necessary or appropriate in addition to the matters by the terms hereof required as a condition precedent to such action.

5.6 All moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys, except to the extent required by law, and may be prescribed by law in the Trustee's general banking department, and the Trustee shall be under no liability for interest on any moneys received by it hereunder. The Trustee and any affiliated corporation may become the owner of any Note secured hereby and be interested in any financial transaction with the Mortgagor, or the Trustee may act as depository or otherwise in respect to other securities of the Mortgagor, all with the same rights which it would have if not Trustee.

5.7 The Trustee may resign and be discharged of the trusts hereby created by giving notice specifying the date when such resignation shall take effect to the Mortgagor and to the holders of the Notes named in the Loan Agreement. Such resignation shall take effect on the day specified in such notice (being not less than 30 days after the first mailing of such notice) unless previously a successor trustee shall have been appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of such successor.

The Trustee may be removed and/or a successor trustee may be appointed at any time by an instrument or concurrent instruments in writing signed and acknowledged by the holders of a majority in principal amount of the Notes and delivered to the Trustee and to the Mortgagor and, in the case of appointment of a successor trustee, to such successor trustee.

Each trustee appointed in succession of the Trustee named in this Mortgage, or its successor in the trust, shall be a trust company or banking corporation having an office in the City of Philadelphia, Pennsylvania, in good standing and having a capital and surplus aggregating at least \$10,000,000, if there be such a trust company or banking corporation qualified, able and willing to accept the trust upon reasonable or customary terms.

5.8 Any company into which the Trustee, or any successor to it in the trust created by this Mortgage, may be merged or converted or with which it or any successor to it may be consolidated, or any company resulting from any merger or consolidation to which the Trustee or any successor to it shall be a party (provided such company shall be a corporation organized under the laws of the Commonwealth of Pennsylvania or of the United States of America, having a capital and surplus of at least \$10,000,000), shall be the successor to the Trustee under this Mortgage without the execution or filing of any paper or any further act on the part of any of the parties hereto. The Mortgagor covenants that in case of any such merger, consolidation or conversion it will, upon the request of the merged, consolidated or converted corporation execute, acknowledge and cause to be recorded or filed

suitable instruments in writing to confirm the estates, rights and interests of such corporation as trustee under this Mortgage.

5.9 Should any deed, conveyance or instrument in writing from the Mortgagor be required by any successor trustee for more fully and certainly vesting in and confirming to such new Trustee such estates, rights, powers and duties, then upon request any and all such deeds, conveyances and instruments in writing shall be made, executed, acknowledged and delivered, and shall be caused to be recorded and/or filed, by the Mortgagor.

5.10 Any new trustee appointed pursuant to any of the provisions hereof shall execute, acknowledge and deliver to the Mortgagor an instrument accepting such appointment; and thereupon such new trustee, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers and trusts of its predecessor in the rights hereunder with like effect as if originally named as Trustee herein; but nevertheless, upon the written request of the Mortgagor or of the successor trustee, the Trustee ceasing to act shall execute and deliver an instrument transferring to such successor trustee, upon the trusts herein expressed, all the estates, properties, rights, powers and trusts of the Trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such Trustee to the successor trustee so appointed in its or his place.

SECTION 6. LIMITATIONS OF LIABILITY:

Anything in this Mortgage, the Loan Agreement, the Notes, the Lease, any certificate, opinion or document of any nature whatsoever to the contrary notwithstanding, neither the Trustee nor the holder of any Note or their respective successors or assigns shall have any claim, remedy or right to proceed (at law or in equity) against the Mortgagor in their fiduciary capacity or in their respective individual capacities, for the payment of any deficiency or any other sum owing on account of the indebtedness evidenced by the Notes or for the payment of any liability resulting from the breach of any representation, agreement or warranty of any nature whatsoever, from any source other than the mortgaged property; and the Trustees and the holders of the Notes by acceptance thereof waive and release any personal liability of the Mortgagor, for and on account of the indebtedness or such liability; and the Trustee and the holders of the Notes agree to look solely to the mortgaged property, including the sums due and to become due under the Lease for the payment of said indebtedness or the satisfaction of such liability; provided, however, nothing herein contained shall limit, restrict or impair the rights of the Trustee and the holders of the Notes to accelerate the maturity of

the Notes upon a default thereunder, to bring suit and obtain a judgment against the Mortgagor on the Notes (provided that the Mortgagor shall not have any personal liability on any such judgment and the satisfaction thereof shall be limited to the mortgaged property and the sums due and to become due under the Lease, including any interest therein of the Mortgagor or to foreclose the lien of this Mortgage or otherwise realize upon the mortgaged property or the sums due or to become due under the Lease, including the right to proceed against the Lessee under the Lease.

SECTION 7. MISCELLANEOUS:

7.1 Whenever any of the parties hereto is referred to such reference shall be deemed to include the successors and assigns of such party; and all the covenants, premises and agreements in this Mortgage contained by or on behalf of the Mortgagor or by or on behalf of the Trustee, shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

7.2 The unenforceability or invalidity of any provision or provisions of this Mortgage shall not render any other provision or provisions herein contained unenforceable or invalid.

7.3 All communications provided for herein shall be in writing and shall be deemed to have been given (unless otherwise required by the specific provisions hereof in respect of any matter) when delivered personally or when deposited in the United States mail, registered, postage prepaid, addressed as follows:

If to the Mortgagor: The Fifth Third Bank
Fifth Third Center
Cincinnati, Ohio 45202
Attn: C. P. Reynolds, Jr.

If to the Trustee: First Pennsylvania Banking and
Trust Company
15th and Chestnut St.
Philadelphia, Pennsylvania 19101
Attn: Corporate Trust Department

or as the Mortgagor, or the Trustee at such other address as the Mortgagor or the Trustee may designate by notice duly given in accordance with this Section to the other party.

If any subsequent holder of any Note shall have presented the same to the Trustee for inspection accompanied by a written designation of the address to which notice in respect of such Note is to be given, then wherever herein it is provided that notice shall be

given to the holder or holders of the Notes, the notice shall be addressed to such holder at the address so given but unless and until such subsequent holder or holders shall so present a Note to the Trustee and designate the address, all communications herein provided to be made or given to the holder or holders of the Notes shall be sufficiently given if addressed to the Trustee at its address above given.

7.4 The Trustee shall release this Mortgage and the lien hereof by proper instrument or instruments upon presentation of satisfactory evidence that all indebtedness secured hereby has been fully paid or discharged.

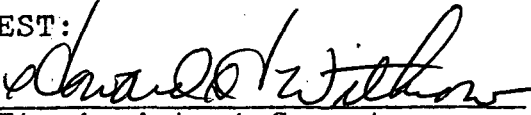
7.5 This Mortgage may be executed, acknowledged and delivered in any number of counterparts, each of such counterparts constituting an original but all together only one Mortgage.

IN WITNESS WHEREOF, the Mortgagor has caused this Mortgage to be executed; and the Trustee in evidence of its acceptance of the trusts hereby created has caused this Mortgage to be executed on its behalf by one of its Vice Presidents and its corporate seal to be hereunto affixed, and said seal and this Mortgage to be attested by one of its Assistant Secretaries, all as of the day and year first above written.

THE FIFTH THIRD BANK

By 
Its Vice President

ATTEST:


By 
Its Assistant Secretary

(Corporate Seal)

FIRST PENNSYLVANIA BANKING AND
TRUST COMPANY
As Trustee as aforesaid

By 
Its Vice President
W. M. KRAYER
VICE PRESIDENT

ATTEST:

By 
Its Assistant Secretary
D. P. DORRIAN
ASSISTANT SECRETARY

State of Ohio }
Co. of Hamilton } SS.

On this 15 day of March, 1973, before me personally appeared M. W. Franklin, to me personally known, who being by me duly sworn, says that he is the Vice President of THE FIFTH THIRD BANK, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal)

Irma S. Martin
Notary Public

My commission expires: _____

IRMA S. MARTIN
Notary Public, Hamilton County, Ohio
My Commission Expires Oct. 14, 1974

State of Pennsylvania }
County of Philadelphia } SS.

On this 16th day of March, 1973, before me personally appeared Th. M. Kroyer, to me personally known, who being by me duly sworn, says that he is the Vice President of FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal)

Elizabeth J. Sabedra
Notary Public

My commission expires: March 1, 1976

SCHEDULE 1

DESCRIPTION OF EQUIPMENT: 480 three-pocket steel hopper cars
87000 to # 87479, inclusive

PURCHASE PRICE: \$5,000 per unit, for a total of
\$2,400,000

REBUILDING COST: Approximately \$3,240 per unit, for
a total of approximately \$1,555,200

TOTAL PRICE: *Approximately \$8,240 per unit, or an
aggregate of approximately \$3,955,200

OUTSIDE DELIVERY DATE: July 1, 1973

DELIVER TO: Bessemer and Lake Erie Railroad
Company (as designated by the railroad)

RENT PERIOD: Twelve (12) years

PERIODIC RENT: 48 quarterly rent payments per item
in arrears at 2.867% of the total
price per Item of Equipment, or
\$113,395.58 for 480 units

RENEWAL OPTION: At Lessee's option at fair rental value

PURCHASE OPTION: At end of term or any renewal,
Lessee may purchase Equipment at
fair market value

* In the event the number of Items or the price of any Items covered by this Schedule is greater or less than the amount shown above, the rentals shall be ratably increased or reduced.

Lessee: Bessemer and Lake Erie Railroad Company

Owner: The Fifth Third Bank

Lender: Bankers Life Insurance Company of Nebraska and
The Travelers Insurance Company